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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,606	08/30/2001	John S. Erickson	1509-216	6750
22879 7590 02/12/2009 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400				
EXAMINER				
LY, ANH				
ART UNIT		PAPER NUMBER		
2162				
MAIL DATE		DELIVERY MODE		
02/12/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte*: JOHN S. ERICKSON and MARK SCHLAGETER

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Appeal 2008-2671  
Application No. 09/941,606  
Technology Center 3600

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Mailed: February 12, 2009

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Before DALE M. SHAW, *Chief Appeals Administrator*.  
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 7, 2008. A Docketing Notice was mailed on April 10, 2008 and Appeal No. 2008-2671 was assigned on April 7, 2008. A review of the application revealed that it is not ready for docketing

as an appeal. Accordingly, the application is herewith being remanded to the Examiner to address the following matter(s) requiring attention prior to docketing.

**EXAMINER'S ANSWER CONTAINING**  
**NEW GROUNDS OF REJECTION**

On September 17, 2007, an Examiner's Answer was mailed. The Examiner's Answer included a new grounds of rejection, on page 9, where claim 1 was rejected under 35 U.S.C. § 112, indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

When a new ground of rejection is introduced in the Examiner's Answer, the Examiner is required to obtain approval of the Technology Center Director or his/her designee. Further, any new ground of rejection is required to be prominently identified, e.g., a separate heading with all capitalized letters. See MPEP § 1207.02(A)(6)(d).

To correct this problem, the Examiner will need to vacate the Examiner's Answer mailed September 17, 2007, and mail a Supplemental Examiner's Answer with the approval of the Technology Center Director or designee.

**CONCLUSION**

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) to vacate the Examiner's Answer mailed September 17, 2007;
- 2) mail a Supplemental Examiner's Answer with the signature of the Technology Center Director; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/pgc

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